

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-1495-MSW-E **TCEQ ID:** RN105324875 **CASE NO.:** 34644
RESPONDENT NAME: James & Vickie Enterprises, Inc. dba James Stuart Construction

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: James Stuart Construction, 12841 Highway 90, Beaumont, Hardin County</p> <p>TYPE OF OPERATION: Construction company</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. John Shelton, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2563; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. James Stuart, President, James & Vickie Enterprises, Inc. dba James Stuart Construction, 137 Thomas Road, Lumberton, Texas 77657 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 30 to May 7, 2007</p> <p>Date of NOV/NOE Relating to this Case: September 7, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>WASTE</p> <p>Failed to prevent the transportation and disposal of municipal solid waste at an unauthorized facility. Specifically, the Respondent transported and allowed the disposal of at least 12 cubic yards of municipal solid waste, including sheet metal, and other construction materials, to an unauthorized site located at 10491 Wingfield Drive in Lumberton, Texas [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p>Total Assessed: \$2,156</p> <p>Total Deferred: \$431 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,725</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease transporting waste to any unauthorized facility;</p> <p>b. Within 10 days after the effective date of this Agreed Order, develop and implement procedures to ensure that all wastes generated or transported by the Respondent are disposed at an authorized facility; and</p> <p>c. Within 25 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a. and b.</p>

Additional ID No(s): 0



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

DATES	Assigned	10-Sep-2007	Screening	17-Sep-2007	EPA Due	
	PCW	21-Sep-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	James & Vickie Enterprises, Inc. dba James Stuart Construction
Reg. Ent. Ref. No.	RN105324875
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34644	No. of Violations	1
Docket No.	2007-1495-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	John Shelton
Multi-Media		EC's Team	EnforcementTeam 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0% Enhancement** **Subtotals 2, 3, & 7** **\$0**

Notes No change due to average performer classification.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement* **Subtotal 6** **\$0**
 *Capped at the Total EB \$ Amount

Total EB Amounts	\$174
Approx. Cost of Compliance	\$156

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$2,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **8%** **Adjustment** **\$156**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended adjustment to capture the avoided cost associated with the violations.

Final Penalty Amount **\$2,156**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$2,156**

DEFERRAL **20%** **Reduction** **Adjustment** **-\$431**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,725**

Screening Date 17-Sep-2007

Docket No. 2007-1495-MSW-E

PCW

Respondent James & Vickie Enterprises, Inc. dba James Stuart Cons

Policy Revision 2 (September 2002)

Case ID No. 34644

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN105324875

Media [Statute] Municipal Solid Waste

Enf. Coordinator John Shelton

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 17-Sep-2007		Docket No. 2007-1495-MSW-E		PCW	
Respondent James & Vickie Enterprises, Inc. dba James Stuart Construction		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34644		<i>PCW Revision September 19, 2007</i>			
Reg. Ent. Reference No. RN105324875					
Media [Statute] Municipal Solid Waste					
Enf. Coordinator John Shelton					
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>			
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px; text-align: center;">30 Tex. Admin. Code § 330.15(c)</div>			
Violation Description		<div style="border: 1px solid black; padding: 5px;"> <p>As the generator and transporter of the waste, the Respondent failed to prevent the transportation and disposal of municipal solid waste at an unauthorized facility, as documented during an investigation conducted from April 30 to May 7, 2007.</p> <p>Specifically, the Respondent transported and allowed the disposal of at least 12 cubic yards of municipal solid waste, including sheet metal, and other construction materials, at an unauthorized site located at 10491 Wingfield Drive in Lumberton, Texas.</p> </div>			
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Major	Moderate	Minor		
	Actual	Potential	Percent	10%	
			x		
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
					Percent
					0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.				
Adjustment				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$9,000</div>	
				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,000</div>	
Violation Events					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>	Number of violation days	<div style="border: 1px solid black; padding: 2px; text-align: center;">144</div>	
mark only one with an x	daily				
	monthly				
	quarterly	x			
	semiannual				
	annual				
	single event				
Two quarterly events are recommended from the April 30, 2007 investigation date to the September 17, 2007 screening date.				Violation Base Penalty	
				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,000</div>	
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$174</div>	Violation Final Penalty Total		
			<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,156</div>		
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,156</div>	

Economic Benefit Worksheet

Respondent James & Vickie Enterprises, Inc. dba James Stuart Construction
Case ID No. 34644
Reg. Ent. Reference No. RN105324875
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal	\$156	30-Apr-2007	22-May-2008	1.1	\$8	\$166	\$174
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to transport and dispose of approximately 12 cubic yards of municipal solid waste to an authorized landfill site (\$13 per cubic yard). The Date Required is the investigation date and the Final Date is the expected date of compliance.

Approx. Cost of Compliance

\$156

TOTAL

\$174

Compliance History

Customer/Respondent/Owner-Operator: CN603234733 JAMES & VICKIE ENTERPRISES INC Classification: Average Rating: 3.01

Regulated Entity: RN105324875 JAMES STUART CONSTRUCTION Classification: Average Site Rating: 3.01
By Default

ID Number(s): MUNICIPAL SOLID WASTE NON ID NUMBER 455100052
PERMITTED

Location: 12841 HWY 90, BEAUMONT, TX, 77713 Rating Date: September 01/07
Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: September 11, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 11, 2002 to September 11, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Shelton Phone: (512) 239-2563

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 09/07/2007 (573230)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JAMES & VICKIE ENTERPRISES,
INC. DBA JAMES STUART
CONSTRUCTION
RN105324875**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1495-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding James & Vickie Enterprises, Inc. dba James Stuart Construction ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a construction company located at 12841 Highway 90 in Beaumont, Hardin County, Texas. The Respondent transported municipal solid waste to an unauthorized disposal site located at 10491 Wingfield Drive in Lumberton, Hardin County, Texas (the "Site").
2. The Site involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 12, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand One Hundred Fifty-Six Dollars (\$2,156) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Seven Hundred Twenty-Five Dollars (\$1,725) of the administrative penalty and Four Hundred Thirty-One Dollars (\$431) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As the generator and transporter of the municipal solid waste, the Respondent is alleged to have failed to prevent the transportation and disposal of municipal solid waste at the Site, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted from April 30 to May 7, 2007. Specifically, the Respondent transported and disposed of at least 12 cubic yards of municipal solid waste, including sheet metal, and other construction materials at the Site, which is not authorized for the disposal of this waste.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: James & Vickie Enterprises, Inc. dba James Stuart Construction, Docket No. 2007-1495-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease transporting waste to any unauthorized facility;
 - b. Within 10 days after the effective date of this Agreed Order, develop and implement procedures to ensure that all wastes generated or transported by the Respondent are disposed at an authorized facility; and
 - c. Within 25 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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with a copy to:

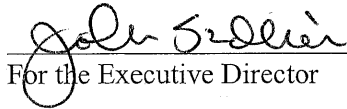
Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

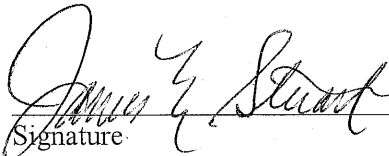
11/11/08
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

11/9/07
Date

JAMES STUART
Name (Printed or typed)
Authorized Representative of
James & Vickie Enterprises, Inc. dba James Stuart Construction

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

